UNITED NATIONS

E/NL.1997/3-5
30 April 1997

ENGLISH ONLY*

# LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.*

## NETHERLANDS ANTILLES

Communicated by the Government of The Netherlands

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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*Note by the Secretariat: This document is a direct reproduction of the texts communicated to the Secretariat by the Government of The Netherlands.

NATIONAL ORDINANCE of May 24 1993 to penalize the laundering of money (National Ordinance penalization of money-laundering).

IN THE NAME OF THE QUEEN!

THE GOVERNOR of the Netherlands Antilles,

Whereas:

It is expedient to give effect to article 3 of the Treaty of the United Nations, concluded in Vienna on December 20 1988, against the illicit trade in narcotics and psychotropic drugs (Convention Memorandum 1989, 97) and article 6 of the Treaty, concluded in Strasbourg on November 8 1990, concerning the laundering, detection, seizure and confiscation of proceeds derived from criminal acts (Convention Memorandum 1990, 172), and it moreover is expedient to carry out recommendations 4, 5, 6 and 7 of the Financial Action Task Force on money-laundering.

Now, therefore, has thought fit, by and with the advice of the Advisory Council and in consultation with Parliament, to lay down the following national ordinance:

Article 1

1. The following persons shall be deemed guilty of intentionally laundering money, monetary securities or claims, and shall be punished either with imprisonment of up to twelve years or a money fine of up to one million guilders, or both:

a. he who acquires, has at his disposal or transfers money, monetary securities or claims while at the time the money, monetary securities or the claims were acquired by him or became available to him, he knew or had to know that the same were derived from criminal acts;

b. he who intentionally, for purpose of gain, has at his disposal or transfers money, monetary securities or claims derived from criminal acts.

2. With the same punishment shall be punished he who intentionally reaps a profit from the proceeds of money, monetary securities or claims derived from criminal acts.

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For written discussions with Parliament,
see documents sitting 1992-1993-1514.

Article 2

He who makes a habit to intentionally launder money, monetary securities or claims, shall be punished either with imprisonment of up to sixteen years or a money fine of up to one million two hundred and fifty thousand guilders, or both.

Article 3

1. The following persons shall be deemed guilty through default, of the laundering of money, monetary securities or claims and shall be punished either with imprisonment of up to four years or a money fine of up to two hundred and fifty thousand guilders, or both:

a. he who acquires, has at his disposal or transfers money, monetary securities or claims while at the time the money, monetary securities or claims were acquired by him or became available to him, he reasonably should have presumed that the same were derived from criminal acts;

b. he who for purpose of gain, has at his disposal or transfers money, monetary securities or claims while he reasonably must presume that the money, monetary securities or claims were derived from criminal acts.

2. With the same punishment shall be punished he who reaps a profit from the proceeds of money, monetary securities or claims while he reasonably must presume that the money, monetary securities or claims were derived from criminal acts.

Article 4

The acts rendered punishable under this National Ordinance shall be criminal acts.

Article 5

1. The criminal acts under this national ordinance are capable of being committed by individuals and legal entities.

2. If a criminal act under this national ordinance is committed by a legal entity, criminal proceedings may be instituted and the punishments and measures provided for in the Penal Code may be imposed, if same enter into consideration for this:

1. against the legal entity, or
2. against those who have ordered the act to be committed, as also against those who have actually given direction to the illegal actions, or
3. against those mentioned under 1 and 2 together.

3. If criminal proceedings are initiated against a legal entity, the same shall be represented during the prosecution by the manager and, if there are several managers, by any one of these. The representative may appear by proxy. The judge may order the personal appearance of a particular manager; he can then order the same to be brought into court.

4. As regards the criminal acts under this national ordinance, legal entities shall be deemed to reside at the place of their domicile, for the purpose of article 20 of the Code of Criminal Procedure of the Netherlands Antilles.

5. If criminal proceedings are initiated against a legal entity, the serving of notices, writs, summonses, notifications or other communications prescribed in the Code of Criminal Procedure of the Netherlands Antilles shall be effected to the person or the place of residence of the manager and, in case of several managers, to any one of these or at the place where the management holds its meetings or maintains an office, except for, in the case of a writ, analogous application of article 130, second and third paragraphs of the Code of Criminal Procedure of the Netherlands Antilles.

6. For the purposes of the aforegoing paragraphs, the company having no legal personality, the partnership, any other association of persons and the foundation or fund ("doelvermogen"), shall be deemed a legal entity.

Article 6

The Opium National Ordinance 1960 (Official Gazette 1960, no. 65) shall be amended as follows:

In Article 11d, the following words shall be deleted: moneys or other means of payment and claims. Following the word "substances", the comma shall be replaced by a full stop.

Article 7

1. This National Ordinance may be cited as "National Ordinance penalization of money-laundering".

2. This National Ordinance shall become effective as and from the day following that of the publication of the Official Gazette in which the proclamation has been made.

Given at Curaçao, May 24, 1993
J.M. SALEH

The Minister of Justice
S.F.C. RÖMER

Issued on June 4, 1993
the Minister of General Affairs.
M.PH. LIBERIA-PETERS

I, Mrs EYDA ELISABETH BUTÔT née BOOMGAART, a sworn translator residing in Curaçao, Netherlands Antilles, knowing the Dutch and English languages, hereby do certify that the foregoing is a true translation of Official Gazette 1993, no. 52.
IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal of office on this sixteenth day of August, nineteen hundred and ninety-three.

E.E. BUTÔT-BOOMGAART SWORN TRANSLATOR CURAÇAO NETHERLANDS ANTILLES

NATIONAL ORDINANCE of February 10th 1996 concerning the obligation to report unusual transactions when rendering financial services (National Ordinance Reporting of Unusual Transactions).

IN THE NAME OF THE QUEEN!

The Governor of the Netherlands Antilles,

Whereas:

it is expedient to make the reporting of unusual transactions obligatory and also in connection therewith to give effect to recommendations 9, 10, 15, 16, 17, 18, 20, 24, 27, 28 and 32 of the Financial Action Task Force on Money Laundering of May 30 1990;

Now, therefore We have thought fit, by and with the advice of the Advisory Council and in consultation with Parliament, to lay down the following national ordinance:

## Chapter I
## General provisions

### Article 1

In this national ordinance and the stipulations based thereon, the following terms shall have the meaning thereby given:

a. financial services: in or from the Netherlands Antilles:
   1° to take into custody securities, paper currency, coins, currency notes, precious metals and other valuables;
   2° to open an account, on which a balance may be kept in money, securities, precious metals or other valuables;
   3° to rent a safe-deposit box;
   4° to effect payment in connection with the cashing in of coupons or comparable documents of bonds or comparable securities;
   5° to enter into a life insurance contract as referred to in article 1, first paragraph, sub a., of the National Ordinance Supervision of the Insurance Industry, as also to render mediation in connection therewith;

For written discussions with Parliament
see documents Session 1994-1995-1723

6° to make a distribution on account of a life insurance contract as referred to sub 5°;
7° to credit or debit an account, or to cause this to be done, on which account a balance may be kept in money, securities, precious metals or other securities;
8° to exchange guilders or foreign currency;
9° to provide other services to be designated by national decree, containing general measures.

b. oustomer: the individual or legal entity to whom or in whose favour a financial service is rendered, and also, in the case of a financial service as referred to under a., sub 5° and 6°, who pays the premium, as also the party in whose favour the distribution is made.
c. transaction: an act or a set of acts of or in favour of a customer in connection with the taking of one or more financial services;
d. unusual transaction: a transaction that, based on the indicators laid down pursuant to article 10, must be regarded as such;
e. reporting: reporting as referred to in article 11;
f. Reporting Center: the Reporting Center referred to in article 2;
g. committee: the committee referred to in article 16;
h. money laundering: an action rendered punishable in the National Ordinance Penalization of Money Laundering.

## Chapter II
## The Unusual Transactions Reporting Center

### Article 2

There shall be an Unusual Transactions Reporting Center, falling under the minister of Finance and operating under the direction of a head.

### Article 3

The task of the Reporting Center shall be:
a. to collect, register, process and analyze the data obtained by it, in order to determine whether these data may be important to prevent and detect money-laundering and the criminal offences that are at the root thereof;
b. to furnish data in conformity with the stipulations laid down in or pursuant to this national ordinance;
c. to notify the party having reported, in accordance with article 11 with a view to proper compliance with the obligation to report, of the handling of the report. In such a case, the notification shall state only whether data have been furnished in accordance with section b;
d. to conduct an investigation into developments in the field of money-laundering and as to improvement of the methods to prevent and detect money-laundering;
e. to make recommendations, having heard the Bank van de Nederlandse Antillen (Central Bank of the Netherlands Antilles), for the relevant branches of business as regards the intro-

duction of appropriate procedures for internal control and communication and other measures to be taken to prevent the use of the relevant branches of business for money-laundering purposes;

f. to give information as regards the phenomenon and the prevention of money-laundering.

g. to render yearly a report of its activities and its plans for the next year to the minister of Finance, and to give ~~notice of~~ this report to the minister of Justice.

Article 4

1. The Reporting Center shall keep a register. The Minister of Finance shall be the administrator of the register.

2. The minister of Finance shall lay down rules for the register and shall be responsible for the proper operation thereof.

3. The register shall contain only data necessary for the purposes to which it has been instituted.

4. No data shall be given from the register, unless rules laid down in or pursuant to this national ordinance provide for this.

Article 5

1. The Reporting Center shall be competent, to the extent necessary for the discharge of its tasks, to consult the registers of the authorities and officials in charge of the detection and prosecution of punishable acts.

2. The authorities and officials referred to in the first paragraph shall be bound to allow the Reporting Center to consult as referred to in the first paragraph.

Article 6

The Reporting Center shall be bound to furnish the following data to the authorities and officials in charge of the detection and prosecution of criminal offences:

1° data from which reasonable presumption results that a certain person is guilty of money-laundering or of a criminal offence that lies at the root thereof;

2° data from which it may be reasonably presumed that they are important to the detection of money-laundering or of the criminal offences lying at the root thereof;

3° data from which it may be reasonably presumed that they are important to the prevention or detection of future criminal offences that may underlie money-laundering and that, in view of their seriousness or frequency, or the organized relation in which they will be committed, result in grave invasion of the legal order.

Article 7

1. By national decree containing general measures, rules shall be laid down as regards the furnishing of data from the

register of the Reporting Center, and the conditions subject to which this shall be done, to the officially designated authorities in or outside the Kingdom, having a task comparable to that of the Reporting Center.

2. The furnishing of data, as referred to in the first paragraph, to authorities outside the Kingdom shall take place only on the strength of a treaty.

Article 8

The appointment, suspension and removal of the head and the other personnel of the Reporting Center, shall take place, having heard the guidance committee referred to in article 16, by national decree on the motion of the minister of Finance in agreement with the minister of Justice.

Article 9

The minister of Finance, in agreement with the minister of Justice, having heard the guidance committee referred to in article 16, shall determine the budget and formation of the Reporting Center.

Chapter III
The obligation to report

Article 10

1. Following consultations with the Reporting Center, and having heard the committee referred to in article 16, the minister of Finance and the minister of Justice jointly shall lay down the indicators, if necessary per category of transaction thereby to be distinguished, for a term of up to six months, on the strength of which indicators it shall be judged whether a transaction shall be considered an unusual transaction.

2. The indicators referred to in the preceding paragraph shall remain in effect on the expiry of the term stated in that paragraph, if approved within such term by national decree containing general measures.

Article 11

1. Anyone who renders financial services by virtue of his profession or in the ordinary course of his business, shall be bund to report any unusual transaction thereby made or proposed, to the Reporting Center without delay.

2. To the extent possible, a report shall contain the following data:

a. the identity of the customer;
b. the nature and the number of the customer's proof of identity;
c. the nature, the time and the place of the transaction;
d. the magnitude and, in case of a financial service as referred to in article 1, under a., sub 7°, the allocation and the origin of the moneys, securities, precious metals or

other valuables involved in the transaction;

e. the circumstances on the strength whereof the transaction is considered to be unusual.

Article 12

1. The Reporting Center shall be competent to ask further data or information from the party having reported as also from the party involved in a transaction through the rendering of a financial service as referred to in article 1, under a., sub 7°, on which transaction the Reporting Center has collected data, in order for it to be able to judge whether the data collected must be furnished by virtue of its task, as referred to in article 3, under b.

2. The party from whom these data or information have been requested in accordance with the first paragraph, shall be bound to furnish the Reporting Center with same in writing, as also, in cases deemed urgent in the discretion of the Reporting Center, orally within the term stated by the Reporting Center.

Article 13

By national decree containing general measures, further rules may be laid down as regards the manner in which a report shall be made or, as the case may be, the manner in which data and information, requested on the strength of article 12, first paragraph, shall be furnished.

Article 14

1. Data or information furnished in accordance with articles 11 or 12, second paragraph, may not serve as a basis for or for purposes of a criminal investigation, or prosecution by reason of suspicion of, or as proof in respect of a charge by reason of, money-laundering or a criminal offence lying at the root thereof, by the party having furnished such data or information.

2. The first paragraph shall apply analogously in respect of the person who is employed by the party that furnished data or information, in conformity with articles 11 or 12, second paragraph, or assisted therewith.

Article 15

1. The party who made a report as laid down in article 11 shall not be liable in respect of any damage suffered by a customer or a third party as a result, unless such damage proceeds from willful acting or gross negligence by the party who made the report.

2. The first paragraph shall apply analogously in respect of the person working for the party that furnished data or information in conformity with article 11, or assisted therewith.

Chapter IV
The Guidance Committee

Article 16

1. There shall be a Guidance Committee for the Reporting Center.

2. The Guidance Committee shall consist of up to twelve members and shall determine its own method of operation.

Article 17

1. The committee shall consist of representatives of:

a. the minister of Finance;
b. the minister of Justice;
c. the branches of business falling under the operation of this national ordinance;
d. the supervising authority for the branches of business falling under the operation of this national ordinance;
e. the public prosecutor.

2. The members and substitute members of the committee shall be appointed and dismissed by the minister of Finance on the motion of the authorities referred to in the first paragraph. The appointment shall be for three years. The members may be reappointed once. On composing the committee, the minister of Finance shall aim at achieving a balanced representation of the authorities mentioned.

3. A representative of the minister of Finance shall preside over the committee.

Article 18

The tasks of the committee shall be:

a. to guide the Reporting Center in the functioning thereof;
b. to make its know-how and expertise available to the Reporting Center;
c. if so requested or on its own initiative, to advise the minister of Finance or the minister of Justice among others on:
    1° the method in which the Reporting Center discharges its task;
    2° the determination of the indicators referred in article 10;
    3° the effectivity of the obligation to report.

Article 19

For the proper discharge of its task, the guidance committee may request data from the Reporting Center. The Reporting Center shall be bound to furnish such data. Personal data shall be furnished in anonymous form.

Chapter V
Secrecy

Article 20

A person who, for the application of this national ordinance

or of resolutions adopted pursuant to this national ordinance, performs or has performed any task, shall be prohibited from making further or other use of data or information furnished or received in pursuance of this national ordinance, or from making the same known further or otherwise than for the discharge of his task or as required by this national ordinance.

Article 21

1. The party who makes a report pursuant to article 11, or who pursuant to article 12, second paragraph, furnishes further ~~data or information,~~ shall be bound to secrecy in respect thereof, save insofar as the need for publication shall issue from the objectives of this national ordinance.

2. ~~The party who obtains data or~~ information pursuant to article 3 under c., shall be bound to secrecy in respect thereof.

Chapter VI
Right to inspect

Article 22

1. ~~A person~~ shall be notified, at his request, by or on behalf of the administrator of the register of the Reporting Center within one month whether and, if so, what personal data concerning such person have been entered in the register.

2. The notification referred to in the first paragraph shall not be made insofar as this shall be necessary for the proper discharge of the task of the Reporting Center or, as the case may be, if weighty third party interests shall so require.

3. If the request referred to in the first paragraph is not complied with, the party involved may address a petition to the Court of First Instance within two months from his receipt of the refusal of the request, for the administrator to be ordered still to comply with this request. The Court shall grant this petition insofar as it shall judge same to be well-founded.

Chapter VII
Punitive Provisions

Article 23

1. Any breach or act in contravention of the provisions of articles 11, 12, second paragraph, articles 20 and 21, or pursuant to article 13, to the extent that this occurs intentionally, shall be a criminal offence and shall be punished either with imprisonment of up to four years, or with a money fine of up to five hundred thousand guilders, or with both these punishments.

2. Contravention of the provisions referred to in the first paragraph, to the extent that this occurs unintentionally, shall be an offence and shall be punished either with detention of up to one year, or with a money fine of up to two hundred and fifty thousand guilders, or with both these punishments.

Article 24

In addition to the persons designated under article 8 of the Criminal Procedure Code of the Netherlands Antilles, the officials and other persons designated by national decree shall be in charge of the detection of the facts rendered punishable under article 23. They may demand inspection at all times of all records, the inspection of which is required in their reasonable view for the performance of their task.

## Article 25

1. If an act rendered punishable under article 23 is committed by or by order of a legal entity, criminal prosecution may be instituted and punishments shall be pronounced, either against such legal entity, or against those who ordered the act to be committed or those who actually directed the act prohibited or omitted, or against them jointly.

2. An act rendered punishable under article 23 shall be committed among others by or by order of a legal entity, if committed by persons who, either by virtue of employment or otherwise act in the scope of the legal entity, regardless of whether these persons each individually have committed the punishable act, or whether the elements of such act are present with them jointly.

3. If criminal prosecution is instituted against a legal entity, the same shall be represented during prosecution by the manager and, in case of several managers, by any one of these. The representative may appear by proxy. The judge may order the personal appearance of a specific manager; he may then order that such manager be brought into court.

4. As regards the acts rendered punishable under article 23, legal entities shall be deemed, for the purposes of article 19 of the Criminal Procedure Code of the Netherlands Antilles, to reside in the place where they are established.

5. If criminal prosecution is instituted against a legal entity, the services, writs of summons, notices, notifications or other communications prescribed in the Criminal Procedure Code of the Netherlands Antilles shall be effected to the person or the place of residence of the manager and, in case of several managers, to any one of these or at the place where the management has its seat or office, except, in case of a writ of summons, with analogous application of article 130, second and third paragraphs, of the Criminal Procedure Code of the Netherlands Antilles.

6. For the application of the preceding paragraphs, the following shall be treated as a legal entity: the company with no legal personality, the partnership, any other association of persons, and the special purpose fund ("doelvermogen").

## Chapter VIII
## Final Provisions

## Article 26

1. This National Ordinance shall become operative at a time

to be stipulated by national decree.

2. At the time this national ordinance becomes operative, the Minister of Finance and the Minister of Justice, jointly, having heard the authorities referred to in article 17; first paragraph under c. and d., shall lay down - in deviation from the provision contained in article 10, first paragraph, - the indicators, if necessary per category of transaction thereby to be distinguished, for a term of up to six months, on the strength of which indicators it shall be judged whether a transaction shall be considered an unusual transaction.

Article 27

This National Ordinance may be cited as: National Ordinance Reporting of Unusual Transactions.

Given at Curaçao, February 10 1996
J.M. SALEH

The Minister of Finance,
H. HENRIQUEZ

The Minister of Justice,
P.J. ATACHO

Issued on March 1st 1996
The Minister of General Affairs, a.i.
L.A.I. CHANCE

NATIONAL ORDINANCE of February 10th 1996 containing regulations concerning the identification of customers when rendering financial services (National Ordinance Identification when Rendering Financial Services).

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IN THE NAME OF THE QUEEN!

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The Governor of the Netherlands Antilles,

Whereas:

it is expedient to lay down rules concerning the identification of customers when rendering financial services, and this in connection with the implementation of recommendations 12, 13 and 14 of the Financial Action Task Force on Money Laundering of May 30 1990;

Now, therefore We have thought fit, by and with the advice of the Advisory Council and in consultation with Parliament, to lay down the following national ordinance:

Article 1

In this national ordinance and the stipulations based thereon, the following terms shall have the meaning thereby given:

a. service provider: anyone who renders financial services by virtue of his profession or in the ordinary course of his business;
b. financial services: the following services rendered by a service provider in or from the Netherlands Antilles:
   1° the taking into custody of securities, paper currency, coins, currency notes, precious metals and other valuables;
   2° the opening of an account, on which a balance may be kept in money, securities, precious metals or other valuables;
   3° the renting of a safe-deposit box;
   4° the effecting of payment in connection with the cashing in of coupons or compatable documents of bonds or comparable securities;

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For written discussions with Parliament
see documents Session 1995-1996-1803

5° the entering into or mediating at the effecting of a life insurance contract as referred to in article 1, first paragraph, section a., of the National Ordinance Supervision of the Insurance Industry, at a premium as referred to in article 1, first paragraph, section c., of the National Ordinance Supervision of the Insurance Industry in excess of an amount to be stipulated by the Minister;

6° the making of a distribution on account of a life insurance contract as referred to sub 5° which is in excess of an amount to be stipulated by the Minister;

7° the rendering of services in respect of a transaction or of evidently related transactions, having an equivalent or aggregate equivalent equal to or in excess of an amount to be stipulated by the Minister, which may vary for the different kinds of transactions;

8° the crediting or debiting of an account, or causing this to be done, on which account a balance may be kept in money, securities, precious metals or other currency;

9° the providing of other services to be designated by national decree, containing general measures.

c. customer: anyone to whom a financial service is rendered, such to include, in the case of the financial service as referred to in section b., sub 5° and 6°, the party who pays the premium as also the one to whom the distribution is made.

d. the Minister: the minister of Finance;

e. credit institution: a credit institution as referred to in article 1, first paragraph, section a., of the National Ordinance Supervision of Banking and Credit Institutions 1994;

f. life insurance industry: a life insurance business as referred to in article 1, first paragraph, section d., of the National Ordinance Supervision of the Insurance Industry.

Article 2

1. The service provider shall be bound to establish the identity of a customer before rendering any financial service to such customer. If the customer is an individual who is not competent to perform the legal act related to the financial service, it will suffice for the service provider to establish the identity of the person thereby acting as the legal representative.

2. The first paragraph shall apply moreover if:

a. it is not known on the rendering of the financial service, referred to in article 1, section b., under 7°, what amount will be involved;

b. the premium referred to in article 1, section b., sub 5°, the distribution referred to in article 1, section b., under 6°, or the amount of the transaction referred to in article 1, section b., under 7°, is smaller than the amount stipulated pursuant to such provisions, but the financial service relates to a transaction that, based on the indicators laid

down pursuant to article 10 of the National Ordinance Reporting of Unusual Transactions, must be deemed to be an unusual transaction as referred to in that national ordinance; or

c. the premium referred to in article 1, section b., sub 5°, the distribution referred to in article 1, section b., under 6°, or the amount of the transaction referred to in article 1, section b., under 7°, is smaller than the amount stipulated pursuant to such provisions, but the service provider knows or reasonably must presume that the transaction to which the financial service relates forms part of a totality of related transactions, involving various financial institutions.

3. The first paragraph shall not apply in respect of the financial services referred to in article 1, section b., sub 5° and 6° insofar as concerning a pension insurance offered by a life insurance business, unless the same is redeemed or serves as security.

4. The Minister may grant exemption from the provisions contained in the first paragraph, if as a customer shall act:

a. an enterprise or institution, registered pursuant to article 11 of the National Ordinance Supervision of Banking and Credit Institutions 1994, or a life insurance business as referred to in article 1, first paragraph, section d. of the National Ordinance Supervision of the Insurance Industry;

b. an enterprise or institution belonging to a category to be designated by the Minister.

5. The Minister may grant a release from the first paragraph if so requested.

6. An exemption as referred to in the fourth paragraph and a release as referred to in the fifth paragraph may be restricted and be subjected to rules.

## Article 3

1. If the customer is an individual, the identity shall be established with the aid of one of the following documents:

a. a valid driver's license as referred to in the road and traffic ordinances of the respective island territories;

b. a valid identity card as referred to in the National Ordinance Identity Cards;

c. a valid travel document designated as such by or pursuant to the Passport Act;

d. a valid foreign passport;

e. another document to be designated by the Minister.

2. If the customer is a Netherlands Antilles legal entity or a foreign legal entity established in the Netherlands Antilles, the identity shall be established with the aid of a certified extract from the register of the Chamber of Commerce and Industry in the island territory where such legal entity is registered, or with the aid of a deed drawn up by a civil-law notary established in the Netherlands Antilles.

3. If the customer is a foreign legal entity not established in the Netherlands Antilles, the identity shall be established with the aid of a deed drawn up by a civil-law notary established in the Netherlands Antilles.

4. The Minister shall determine the minimal data to be inserted in the notarial deed referred to in the second and third paragraphs.

Article 4

1. In deviation from article 3, the obligations referred to in article 2 shall be met if the service provider avails himself, when establishing the identity of a customer, of the data determined by him earlier when rendering financial services to such customer, in conformity with the stipulations of this national ordinance, all this provided that the data shall not be older than 5 years.
The first sentence shall not apply if a financial service is involved in respect of a transaction with an equivalent or aggregate equivalent equal to or in excess of an amount to be determined by the Minister, and this service is rendered by the service provider through a branch other than the one that established the customer's identity.

2. The obligation, referred to in article 2 first paragraph, with relation to a financial service as referred to in article 1, section b., sub 5° and 6° shall be complied with if the first premium payment is made to the charge of, or the distribution by reason of the life insurance contract is paid in favour of an account of the customer with a credit institution, registered pursuant to article 11 of the National Ordinance Supervision of Banking and Credit Institutions 1994, or a life insurance business as referred to in article 1, section b., of the National Ordinance Supervision of the Insurance Industry or a credit institution or life insurance business domiciled in a state to be designated by the Minister, on condition that the service provider rendering the financial service has obtained confirmation from such service provider that the establishment of the customer's identity and the registration thereof have been executed in its name.

3. The obligation referred to in article 2, first paragraph, with relation to the financial service, referred to in article 1, section b., sub 1°, 2°, 4° and 7° insofar as relating to the trade in securities, shall be complied with if the first payment relating to the financial service is made by the customer, or if a payment is made to the customer to the charge or benefit of an account of such customer with a credit institution registered pursuant to article 11 of the National ordinance Supervision of Banking and Credit Institutions 1994 or a credit institution domiciled in a state designated by the Minister, and on condition that the service provider has obtained confirmation from the credit institution that the establishment of that customer's identity and the registration thereof have been executed in its name.

4. The third paragraph shall apply analogously in cases to be designated by the Minister.

5. Paragraphs two to four, inclusive, shall not apply if the financial service relates to a transaction that must be deemed to be an unusual transaction in terms of the National Ordinance Reporting of Unusual Transactions, or if article 5, fourth para-

graph, applies.

Article 5

1. The service provider shall be bound to establish the identity of the individual appearing before him on behalf of a customer or on behalf of a representative of a customer, and this in accordance with articles 3 and 4, before he proceeds to the rendering of the financial service.

2. The service provider shall be bound to verify whether the individual appearing before him is acting for himself or for a third party.

3. If the individual acts for a third party, the service provider shall be bound to establish the identity of such third party with the aid of the documents, referred to in article 3, to be submitted by the individual, unless article 2, first paragraph, second sentence, applies. If the third party acts for another third party, the service provider shall be bound to establish the identity of such third party in the same manner, unless article 2, first paragraph, second sentence applies.

4. If the service provider knows or reasonably must presume that the individual appearing before him is not acting for himself, the service provider shall be bound to take reasonable measures in order to discover the identity of the customer for whom such individual is acting and, in the event of a customer being represented by a third party, the identity of such representative.

5. The third and fourth paragraphs shall not apply if the individual is a service provider or acts on behalf of a service provider, in respect of whom an exemption as referred to in article 2, fourth paragraph, or a release as referred to in article 2, fifth paragraph, applies, on condition that such service provider [establishes *] the identity of the third party, for whom he is acting, in accordance with this national ordinance or in accordance with the legislation of a state designated by the Minister.

[* translator's note: the verb/predicate is missing]

6. The Minister may grant exemption and, on request, release from the third and fourth paragraphs. An exemption and a release may be restricted and may be subjected to rules.

Article 6

The service provider shall be bound to lay down the following data in such a manner that these shall be accessible:

a. the name, the address and the residence or the domicile of the customer and of the person to whose name the deposit or the account is placed, of the person who shall have access to the safe-deposit box or the person to whose name a payment or transaction shall be made, as also of their representatives;

b. the nature, the number and the date and place of issue of the document, with the aid whereof the identity has been established, save if article 4 applies;

c. the nature of the financial service; and

d.1. in case of the taking into custody of the valuables referred to in article 1, section b., sub 1°: the deposit number concerned and the market value represented by these valuables at the time they are taken into custody or, in the absence of a market value, the amount represented by these valuables, calculated according to other valuation principles customary in business transactions, or if the amount represented by these valuables cannot reasonably be determined, an accurate description of such valuables;

2. in case of an account being opened: a clear description of the kind of account and the number assigned to such account;

3. in the case of a safe-deposit box being rented: the number or other distinguishing designation of the safe-deposit box concerned;

4. in the case of payments being made in respect of the cashing in of coupons or comparable documents of bonds or comparable securities: the amount involved in the transaction and the account number in question;

5. in the case of a life insurance contract being effected: the number of the account to the charge whereof the premium payment is made;

6. in the case of a distribution being made by reason of a life insurance contract: the number of the account in favour of which the distribution is made;

7. in the case of a financial service as referred to in article 1, section b., sub 7°: the amount involved in the transaction and the account number in question;

8. in the case of a financial service as referred to in article 1, section b., sub 9°: the data relating to such service, as designated by national decree containing general measures.

Article 7

The service provider shall be bound to keep the data referred to in article 6 in an accessible manner until five years from the termination of the agreement, on the grounds whereof the financial service was rendered, or until five years from the execution of a financial service as referred to in article 1, section b., sub 4° or 7°.

Article 8

The service provider shall be prohibited from rendering a financial service if the identity of the customer has not been established in the manner prescribed in this national ordinance.

Article 9

1. Contravention of the rules laid down by or pursuant to article 2, first, second and sixth paragraphs, articles 5, 6, 7 and 8 of this national ordinance, to the extent that this occurs intentionally, shall be a criminal offence and shall be punished with either imprisonment of up to four years, or with a money fine of up to five hundred thousand guilders, or with both these punishments.

2. Contravention of the rules laid down by or pursuant to article 2, first, second and sixth paragraphs, articles 5, 6, 7 and 8 of this national ordinance, to the extent that this occurs unintentionally, shall be an offence and shall be punished with either detention of up to one year, or with a money fine of up to two hundred and fifty thousand guilders, or with both these punishments.

Article 10

In addition to the persons designated under article 8 of the Criminal Procedure Code of the Netherlands Antilles, the officials and other persons designated by national decree shall be in charge of the detection of the facts rendered punishable under article 9. They may demand inspection at all times of all records, the inspection of which in their reasonable view is required for the performance of their task.

Article 11

1. If an act rendered punishable under article 9 is committed by or by order of a legal entity, criminal prosecution shall be instituted and punishments shall be pronounced, either against such legal entity, or against those who ordered the act to be committed or those who actually directed the act prohibited or omitted, or against them jointly.

2. An act rendered punishable under article 9 shall be committed among others by or by order of a legal entity, if committed by persons who, either by virtue of employment or otherwise, act in the scope of the legal entity, regardless of whether these persons each individually have committed the punishable act, or whether the elements of such act are present with them jointly.

3. If criminal prosecution is instituted against a legal entity, the same shall be represented during prosecution by the manager and, in case of several managers, by any one of these. The representative may appear by proxy. The judge may order the personal appearance of a specific manager; he may then order that such manager be brought into court.

4. As regards the acts rendered punishable under article 9, legal entities shall be deemed for the purposes of article 19 of the Criminal Procedure Code of the Netherlands Antilles to reside in the place where they are established.

5. If criminal prosecution is instituted against a legal entity, the services, writs of summons, notices, notifications or other communications prescribed in the Criminal Procedure Code of the Netherlands Antilles shall be effected to the person or the place of residence of the manager and, in case of several managers, to any one of these or at the place where the management has its seat or office, except, in case of a writ of summons, as referred to in article 130, second and third paragraphs, of the Criminal Procedure Code of the Netherlands Antilles.

6. For the application of the preceding paragraphs, the following shall be treated as a legal entity: the company with no legal personality, the partnership, any other association of

persons, and the special purpose fund ("doelvermogen").

Article 12

This National Ordinance shall become operative at a time to be stipulated by national decree.

Article 13

This National Ordinance may be cited as: National Ordinance Identification when Rendering Financial Services.

Given at Willemstad, February 10 1996
J.H. SALEH

The Minister of Finance,
H. HENRIQUEZ

Issued on March 1st 1996
The Minister of General Affairs, a.i.
L.A.I. CHANCE